

October 17, 2018

Ms. Carol Sutkus  
California Air Resources Board  
P.O. Box 2815  
Sacramento, CA 95812

Dear Carol:

The Placer County Air Pollution Control District Board of Directors, on October 11, 2018, approved the amendment of District Rule 305, Residential Allowable Burning, to modify the requirements for a CARB approved Request for Exemption from the Residential Open Burning ATCM, and to change the mention of the possible requirement of a burn permit by fire agencies to a "Note". On September 4, 2018, the District withdrew the submission of the August 9, 2018 amendment of Rule 305 as a requested revision to the State Implementation Plan (SIP), in order to make these additional changes.

The District hereby submits the October 11, 2018 Rule 305 amendment to the Air Resources Board, for approval and to be forwarded to U.S. EPA as a revision to the SIP.

Attached are the electronic files necessary for your review for amendment of Rule 305, which include:

- APCD signed submittal letter
- Rule Evaluation Form
- SIP completeness Checklist
- Signed Resolution #18-15
- Proof of Notice of public hearing
- Board Memo
- Staff Report
- Strikeout copies of amended rule
- Amended Rule 305 (without strikeouts--Adobe Acrobat and Microsoft Word formats)

Please let me know if you have any questions regarding this submittal. Please address any formal written comments to Erik C. White, Air Pollution Control Officer ([ecwhite@placer.ca.gov](mailto:ecwhite@placer.ca.gov)).

Sincerely,



Erik C. White  
Air Pollution Control Officer

CALIFORNIA AIR RESOURCES BOARD

**SIP COMPLETENESS CHECKLIST**  
(Electronic Format)

\*\*\* TO BE COMPLETED BY DISTRICT AND RETURNED TO ARB \*\*\*

All rules submitted to the EPA as State Implementation Plan (SIP) revisions must be supported by certain information and documentation for the rule packages to be deemed complete for review by the EPA. Rules will not be evaluated for approvability by the EPA unless the submittal packages are complete. To assist you in determining that all necessary materials are included in rules packages sent to the ARB for submittal to the EPA, please fill out the following form and include it with the rule package you send ARB. See the ARB's Guidelines on the Implementation of the 40 CFR 51, Appendix V, for a more detailed explanation than is provided here. Adopted rules and rule amendments should be checked against U.S. EPA's Guidance Document for Correcting Common VOC & Other Rule Deficiencies (Little Blue Book, August 21, 2001) to ensure that they contain no elements which will result in disapproval by EPA.

District: Placer County Air Pollution Control District

Rule No: 305

Rule Title: Residential Allowable Burning

Date Adopted or Amended: October 11, 2018

**ADMINISTRATIVE MATERIALS**

*Note: All documents should be in electronic format. Items that have signatures, initials, or stamps may be scanned.*

<u>Attached</u>	<u>Not Attached</u>	<u>N/A</u>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b><u>COMPLETE COPY OF THE RULE:</u></b> Provide an unmarked copy of the entire rule as adopted or amended by your District Board.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b><u>UNDERLINE AND STRIKEOUT COPY OF THE RULE:</u></b> If an amended rule, provide a complete copy of the rule indicating in underline and strikeout format all language which has been added, deleted, or changed since the rule was last adopted or amended.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b><u>COMPLETE COPY OF THE REFERENCED RULE(S):</u></b> For any rule which includes language specifically referencing another rule, a copy of that other rule must also be submitted, unless it has already been submitted to EPA as part of a previous SIP submittal.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b><u>PUBLIC NOTICE EVIDENCE:</u></b> Include a copy of the local newspaper clipping certification(s), stating the date of publication, which must be at least 30 days before the hearing. As an alternative, include a copy of the actual published notice of the public hearing as it appeared in the local newspaper(s). In this case, however, enough of the newspaper page must be included to show the date of publication. The notice must specifically identify by title and number each rule adopted or amended.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b><u>RESOLUTION/MINUTE ORDER:</u></b> Provide the Board Clerk certified resolution or minute order. This document must include certification that the hearing was held in accordance with the information in the public notice. It must also list the rules that were adopted or amended, the date of the public hearing, and a statement of compliance with California Health and Safety Code Sections 40725-40728 (Administrative Procedures Act).
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b><u>PUBLIC COMMENTS AND RESPONSES:</u></b> Submit copies of written public comments made during the notice period and at the public hearing. Also submit any written responses prepared by the District staff or presented to the District Board at the public hearing. A summary of the public comments and responses is adequate. If there were no comments made during the notice period or at the hearing, please indicate N/A to the left.

CALIFORNIA AIR RESOURCES BOARD

**SIP COMPLETENESS CHECKLIST**  
(Electronic Format)

**TECHNICAL MATERIALS**

<u>Attached</u>	<u>Not Attached</u>	<u>N/A</u>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b><u>RULE EVALUATION FORM:</u></b> See instructions for completing the Rule Evaluation Form and the accompanying sample form.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b><u>NON-EPA TEST METHODS:</u></b> Attach all test methods that are referenced in your rule that do not appear in 40 CFR 51, 60, 61, 63, or have not been previously submitted to EPA. EPA methods used in other media such as SW846 for solid waste are not automatically approved for air pollution applications. Submittal of test methods that are not EPA-approved should include the information and follow the procedure described in Region 9's "Test Method Review & Evaluation Process."
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b><u>MODELING SUPPORT:</u></b> Provide if appropriate. In general, modeling support is not required for VOC and NOx rules to determine their impacts on ozone levels. Modeling is required where a rule is a relaxation that affects large sources ( $\geq 100$ TPY) in an attainment area for SO <sub>2</sub> , directly emitted PM <sub>10</sub> , CO, or NO <sub>x</sub> (for NO <sub>2</sub> purposes). In cases where EPA is concerned with the impact on air quality of rule revisions which relax limits or cause a shift in emission patterns in a nonattainment area, a reference back to the approved SIP will be sufficient provided the approved SIP accounts for the relaxation and provided the approved SIP used the current EPA modeling guidelines. If current EPA modeling guidelines were not used, then new modeling may be required.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b><u>ECONOMIC AND TECHNICAL JUSTIFICATION FOR DEVIATIONS FROM EPA POLICIES:</u></b> The District staff report or other information included with the submittal should discuss all potential relaxations or deviations from RACT, RACM, BACT, BACM, enforceability, attainment, RFP, or other relevant EPA requirements. This includes, for example, demonstrating that exemptions or emission limits less stringent than the presumptive RACT (e.g., a CTG) meet EPA's 5 percent policy, and demonstrating that all source categories exempted from a RACM/BACM rule are de minimus according to EPA's RACM/BACM policy.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b><u>ADDITIONAL MATERIALS:</u></b> Provide District staff reports and any other supporting information concerning development of the rule or rule changes. This information should explain the basis for all limits and thresholds contained in the rule.

**APCD/AQMD RULE EVALUATION FORM -- Page 1**  
(Electronic Format)**I. GENERAL INFORMATION**District: Placer County Air Pollution Control DistrictRule No(s): 305 Date adopted/Amended/Rescinded: Amended October 11, 2018Rule Title(s): Rule 305, Residential Allowable BurningDate Submitted to ARB: 10/17/2018If an Amended Rule, Date Last Amended (or Adopted): 08/09/2018Is the Rule Intended to be Sent to the U.S. EPA as a SIP Revision? ☒ Yes ☐ No (If No, do not complete remainder of form)District Contact: Todd Nishikawa Phone Number: (530) 745-2322 E-mail Address: TNISHIKA@PLACER.CA.GOVNarrative Summary of New Rule or Rule Changes: ☐ New Rule ☒ Amended Rule

Rule 305 is amended to modify the requirements for a CARB approved Request for Exemption from the Residential Open Burning ATCM, and to change the mention of the possible requirement of a burn permit by fire agencies to a note.

Pollutant(s) Regulated by the Rule (Check): ☒ ROG ☒ (NO<sub>x</sub>) ☐ SO<sub>2</sub>  
☒ (CO) ☒ PM ☐ TAC (name): \_\_\_\_\_**II. EFFECT ON EMISSIONS**

Complete this section ONLY for rules that, when implemented, will result in quantifiable changes in emissions. Attach reference(s) for emission factor(s) and other information. Attach calculation sheet showing how the emission information provided below was determined.

Net Effect on Emissions: ☐ Increase ☐ Decrease ☒ N/AEmission Reduction Commitment in SIP for this Source Category: N/AInventory Year Used to Calculate Changes in Emissions: N/A Area Affected: \_\_\_\_\_Future Year Control Profile Estimate (Provide information on as many years as possible):  
\_\_\_\_\_

**APCD/AQMD RULE EVALUATION FORM -- Page 2**  
(Electronic Format)

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Baseline Inventory in the SIP for the Control Measure: N/A

Emissions Reduction Commitment in the SIP for the Control Measure: N/A

Revised Baseline Inventory (if any): N/A

Revised Emission Reduction Estimate (if developed): N/A

*Note that the district's input to the Rule Evaluation Form will not be used as input to the ARB's emission forecasting and planning.*

**III. SOURCES/ATTAINMENT STATUS**

District is: ☐ Attainment ☒ Nonattainment ☐ Split

Approximate Total Number of Small (<100 TPY) Sources Affected by this Amendment: None

Percent in Nonattainment Area: \_\_\_\_\_%

Number of Large ( $\geq$  100 TPY) Sources Controlled: None Percent in Nonattainment Area: \_\_\_\_\_%

Name(s) and Location(s) (city and county) of Large ( $\geq$  100 TPY) Sources Controlled by Rule *(Attach additional sheets as necessary)*: N/A

**IV. EMISSION REDUCTION TECHNOLOGY**

Does the Rule Include Emission Limits that are Continuous? ☐ Yes ☒ No

If Yes, Those Limits are in Section(s) \_\_\_\_\_ of the Rule.

Other Methods in the Rule for Achieving Emission Reductions are: Prohibitions on burning.

**V. OTHER REQUIREMENTS**

The Rule Contains:

Emission Limits in Section(s): 300 Work Practice Standards in Section(s): 300

Recordkeeping Requirements in Section(s): 500 Reporting Requirements in Section(s): 500

**APCD/AQMD RULE EVALUATION FORM -- Page 3**  
(Electronic Format)

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**VI. IMPACT ON AIR QUALITY PLAN**

☒ No Impact      ☐ Impacts RFP      ☐ Impacts attainment

Discussion: The changes made are technical amendments that do not result in an increase or reduction in air pollutants.

Before the Placer County  
Air Pollution Control District Board of Directors

**In the Matter Of:** The adoption of Rule 305, Residential Allowable Burning, as amended and as shown in Exhibit I.

The following **RESOLUTION** was duly passed by the Placer County Air Pollution Control District Board of Directors at a regular meeting held on **October 11, 2018** by the following vote:

Ayes: Alvord ☒ Berlant ☒ Duncan ☒ Harvey absent Holmes ☒  
Montgomery absent Nader ☒ Patterson ☒ Weygandt ☒

Alternates: \_\_\_\_\_

Noes: Alvord \_\_\_\_\_ Berlant \_\_\_\_\_ Duncan \_\_\_\_\_ Harvey \_\_\_\_\_ Holmes \_\_\_\_\_  
Montgomery \_\_\_\_\_ Nader \_\_\_\_\_ Patterson \_\_\_\_\_ Weygandt \_\_\_\_\_

Alternates: \_\_\_\_\_

Abstain: Alvord \_\_\_\_\_ Berlant \_\_\_\_\_ Duncan \_\_\_\_\_ Harvey \_\_\_\_\_ Holmes \_\_\_\_\_  
Montgomery \_\_\_\_\_ Nader \_\_\_\_\_ Patterson \_\_\_\_\_ Weygandt \_\_\_\_\_

Alternates: \_\_\_\_\_

Signed and approved by me after its passage:

 \_\_\_\_\_ Chairperson

 \_\_\_\_\_ Attest: Clerk of said Board

**WHEREAS**, Section 40001 of the Health and Safety Code of the State of California authorizes the Placer County Air Pollution Control District, to adopt and enforce Rules and Regulations to achieve and maintain ambient air quality standards within the District; and

**WHEREAS**, Section 40702 of the Health and Safety Code of the State of California requires a district to adopt rules and regulations and do such acts as may be necessary or proper to execute the powers and duties granted; and



**WHEREAS**, the Board of Directors (Board) of the Placer County Air Pollution Control District (District) is authorized to adopt rules and regulations and do such acts as may be necessary or proper to execute the powers and duties granted by Health and Safety Code Sections 40001, 40702, 40716, 41010, and 41013 (Health and Safety Code Section 40727(b)(2)); and

**WHEREAS**, the Board has determined that a need exists to amend Rule 305 to make necessary clarification and improvement changes identified by California Air Resources Board (CARB) staff; and

**WHEREAS**, the Board has determined that the meaning of the amended Rule 305 can be easily understood by the persons directly affected by it (Health and Safety Code Section 40727(b)(3)); and

**WHEREAS**, the Board has determined that the amended Rule 305 is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations (Health and Safety Code Section 40727(b)(4)); and

**WHEREAS**, the Board has maintained records of the rulemaking proceedings (Health and Safety Code Section 40728); and

**WHEREAS**, the Board has made the findings pursuant to Health and Safety Code Section 40727, of necessity, authority, clarity, consistency, non-duplication, and reference in regard to the proposed amended rule; and,

**WHEREAS**, the District has considered the relative cost effectiveness of the amended measure as well as other factors, as required by Health and Safety Code Section 40922, and made reasonable efforts to determine the direct costs expected to be incurred by regulated parties pursuant to Health and Safety Code Section 40703; and

**WHEREAS**, the District finds that the proposed amended Rule 305 is exempt from the California Environmental Quality Act (CEQA) because (1) it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment (CEQA Guidelines §15061(b)(3)) and (2) it is as an action by a regulatory agency for protection of the environment (Class 8 Categorical Exemption, CEQA Guidelines §15308); and

**WHEREAS**, these proceedings were held in a public hearing and were properly noticed pursuant to Section 40725 of the Health and Safety Code of the State of California; with any evidence having been received concerning the proposed adoption of this Resolution and this Board having duly considered such evidence; and

**WHEREAS**, the Board has determined that a need exists to amend Rule 305 to clarify those areas that are exempted from State's Airborne Toxic Control Measure (ATCM) to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning and allow burn barrels to be used for the burning of dry paper or cardboard comports with the exemption provisions of the ATCM; and

**WHEREAS**, when the burning of dry paper and cardboard is allowed by exemption, the use of a burn barrel is preferred versus unconfined burning, from a fire hazard perspective; and



**NOW, THEREFORE BE IT RESOLVED** that this Board adopts the amendment to Rule 305, Residential Allowable Burning, of Regulation 3, Open Burning, as shown in Exhibit I.

**BE IT RESOLVED AND ORDERED** that the Air Pollution Control Officer is hereby authorized and directed to submit this adopted rule in the form required by CARB, on behalf of the District, and to request that CARB adopt this rule into the California State Implementation Plan (SIP) and that CARB submit this rule to the United States Environmental Protection Agency for approval of this rule as a revision to the SIP, and to perform such acts as are necessary to carry out the purpose of this resolution.

Exhibit:        I:        Rule 305, Residential Allowable Burning (as amended)

**Exhibit I**

**Rule 305, Residential Allowable Burning, as amended**

# **RULE 305 RESIDENTIAL ALLOWABLE BURNING**

Adopted 02-10-11  
(Amended 02-09-12, 08-09-18, 10-11-18)

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### **400 ADMINISTRATIVE REQUIREMENTS (None)**

### **500 MONITORING AND RECORDS (None)**

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## 100 GENERAL

**101 PURPOSE:** To reduce emissions of toxic air contaminants from smoke from allowed outdoor burning at a residence, of allowable combustibles originating, on the premises where burned.

## 102 APPLICABILITY

102.1 This rule shall apply to persons conducting outdoor burning of residential allowable combustibles.

102.2 Title 17 of the California Code of Regulations for the Airborne Toxic Control Measure (ATCM) to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning.

## 103 EXEMPTIONS

### 103.1 Rule Exemptions

103.1.1 Burning conducted pursuant to Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.2 Burning conducted pursuant to Rule 302, AGRICULTURAL WASTE BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.3 Burning conducted pursuant to Rule 303, PRESCRIBED BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.4 Burning conducted pursuant to Rule 304, LAND DEVELOPMENT BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.5 Burning conducted pursuant to Rule 306, OPEN BURNING OF NONINDUSTRIAL WOOD WASTE AT DESIGNATED DISPOSAL SITES is exempt from this Rule.

103.2 Exempt Areas: Effective January 1, 2004, the burning of dry, non-glossy paper and cardboard, or the use of a burn barrel, or both, is not allowed unless an exemption has been approved by the District Board of Directors that meets all the following subsections 103.2.1 through 103.2.7.

103.2.1 Burning is only conducted on burn days, and

103.2.2 The dry, non-glossy paper and cardboard to be burned originates from, and will be burned on, the premises of a residence, and

103.2.3 The residence is not in an incorporated place; and

103.2.4 The residence lies within a sub-area for which the District can request an exemption based on a population density of less than or equal to 3.0 persons per square mile as calculated from the last decennial United States Census Data; and

103.2.5 The residence is in an area not served on a weekly basis by an organized waste disposal service; and

103.2.6 The residence does not lie within the boundary of a jurisdiction which prohibits the burning of dry, non-glossy paper and cardboard as of January 4, 2002, or thereafter.

103.2.7 Within the boundaries of the zip code sub-area, if the population density remains equal to or below 3.0 persons per square mile the air district may renew the exemption every five years for census zip code sub-area pursuant to Section 93113(e), Title 17 of the California Code of Regulations.

**200 DEFINITIONS:** (Unless otherwise defined below, the terms used in this Rule are as defined in Rule 102, DEFINITIONS or Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT.)

**201 ALLOWABLE COMBUSTIBLES:** Vegetation originating on the premises of a residence, limited to the following: dry trees and trimmings, dry brush/shrubs, dry leaves, pine needles, grasses and forbs, dry plants and flowers, dry weeds, and dry vines. Lawn clippings, oleander (*nerium oleander*), cannabis, and poison oak (*toxicodendron diversilobum*) are excluded. Vegetation that is not reasonably free of dirt, soil, and visible surface moisture, is not an allowed combustible.

**202 BURN BARREL:** A metal container used to hold combustible or flammable waste materials, so that they can be ignited outdoors for purpose of disposal.

**203 CANNABIS OR MARIJUANA:** These terms shall be used interchangeably and mean all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, including marijuana as defined by California Health and Safety Code Section 11018, as may be amended, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The prohibitions of Section 302 of this Rule also apply to "industrial hemp" as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

**204 COMBUSTIBLE:** Any substance capable of burning or any substance that will readily burn.

**205 DISALLOWED COMBUSTIBLES:** Any waste or manufactured material, including but not limited to petroleum products and petroleum wastes; construction and demolition debris; coated wire; putrescible (rotten wastes) and non-putrescible solid, semisolid and liquid materials or wastes; tires; tar; tarpaper; non-natural wood waste; processed or treated wood and wood products; metals; motor vehicle bodies and parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; manufactured products; equipment; instruments; utensils; appliances; furniture; cloth; rags; paper or paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of a dead animal; manure; human or animal parts or wastes, including blood; and fecal- and food-contaminated material.

**206 NO-BURN DAY:** Any day on which agricultural burning, including residential burning, is prohibited by the ARB or the APCO.

**207 OPEN BURNING OR OPEN OUTDOOR:** Burning of any combustibles of any type, outdoors in the open air, where the products of combustion are not directed through a flue.

**208 PERMISSIVE BURN DAY OR BURN DAY:** Any day in which agricultural burning including residential burning, is not prohibited by the ARB and/or the APCO.

**209 RESIDENCE:** A single or two-family dwelling unit and the land and ancillary surrounding (nonresidential) structures.



## 300 STANDARDS

- 301 PROHIBITIONS ON OPEN BURNING:** Except as provided in Regulation 3, no person shall use an open outdoor fire (including the use of a burn barrel) for the purpose of disposal or burning of any disallowed combustibles.
- 302 RESIDENTIAL ALLOWABLE BURNING:** Only allowable combustibles, originating at a residence, and free of disallowed combustibles, and reasonably free from dirt, soil, and visible surface moisture, may be burned in an open outdoor burn pile. Burning in a burn barrel is prohibited.
- 303 BURN PERMITS:** A District burn permit is not required for residential allowable burning.
- NOTE: A separate burn permit may be required from the fire protection agency that has jurisdiction in the area of the residential allowable burning.
- 304 BURN DAYS:** No person shall knowingly ignite, or allow ignition of allowable combustibles on no-burn days or when it is prohibited by a fire protection agency.
- 305 VEGETATION PREPARATION AND DRYING TIMES:** To assure rapid and complete combustion with a minimum of smoke, and to lower the moisture content of the vegetation being burned, (from when the vegetation was cut and is to be burned), the following are drying times.
- 305.1 No vegetation shall be burned unless it is free of disallowed combustibles, dirt, soil, and surface moisture and shall be burned in a manner to prevent excessive smoke. Excessive smoke is that which causes a nuisance.
- 305.2 Vegetation stacked for burning shall not be burned unless it is stacked in such a manner to promote drying and ensure combustion with a minimum amount of smoke.
- 305.3 A minimum of 15 days of drying time for fine prunings or cuttings less than 3 inches in diameter, at the cut end.
- 305.4 A minimum of three to six weeks of drying time, for prunings or brush or small branches 3 to 6 inches in diameter, at the cut end.
- 305.5 A minimum of six weeks of drying time for trees, stumps and large branches greater than 6 inches in diameter, at the cut end.
- 305.6 Vegetation or stumps, greater than 12 inches in diameter, shall not be burned unless they are split smaller than 12 inches in diameter and are free of dirt.
- 306 APPROVED IGNITION DEVICES:** All open fires as authorized by this regulation shall be ignited only with approved ignition devices. The vegetation to be burned should be ignited as rapidly as practicable within applicable fire control restrictions.
- 307 WIND DIRECTION:** Burning shall be curtailed when smoke is drifting into a nearby populated area or when it is or may become a nuisance or hazard.
- 308 DETERMINATION OF AMOUNT BURNED DAILY:** Only that amount of vegetation that can be reasonably expected to burn completely within 24 hours of ignition unless the burn hours are further restricted.

**400 ADMINISTRATIVE REQUIREMENTS** (None)

**500 MONITORING AND RECORDS** (None)



## Board Agenda Item 6

### *Public Hearing/Action*

**Agenda Date:** October 11, 2018

**Prepared By:** Ann Hobbs, Associate Planner

**Topic:** Amendment of Open Burning Rule 305 to Provide Language Clarity in Section 103.2, Exempt Areas

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**Action Requested:**

Conduct a Public Hearing regarding the adoption of proposed amendments to Rule 305, Residential Allowable Burning, of Regulation 3, Open Burning:

- 1) Adopt Resolution #18-15 (Attachment #1), thereby approving Rule 305, Residential Allowable Burning, as amended and as shown in Resolution Exhibit I
- 2) Adopt and approve the Findings in the Staff Report (Attachment #2).

**Background:**

On July 12, 2018, the District submitted a request for renewal of the 5-year exemption to December 31, 2023 for Iowa Hill to continue the use of burn barrels to burn dry paper or cardboard in an area exempted from the State Airborne Toxics Control Measure for outdoor residential waste burning. The Iowa Hill sub-area of Placer County is the only area currently exempted from the ban on residential open burning of household paper and cardboard and the use of burn barrels. This exemption was first requested by the District and approved by the California Air Resources Board (CARB) in 2005, and was renewed in 2013.

At the Board of Directors meeting on August 9, 2018, Rule 305, Residential Allowable Burning, was amended. One of the amendments was the addition of a provision allowing the use of a burn barrel in Exemption 103.2, Exempt Areas. This amendment was made due to the omission of this provision in the previous Rule adoption in 2012. CARB was sent a copy of the proposed August 9, 2018, amendments to Rule 305 and no comments were received prior to the amended Rule being adopted.

With the submittal of the request for exemption in July by District staff, CARB staff handling the request reviewed the District's rule change language following its adoption. CARB staff commented that the language used was not clear and left room for interpretation. Since this request for exemption occurs every five years, District staff agreed to propose language changes, as suggested by CARB staff, in Section 103.2 Exempt Areas, so that in the future the rule language would be more acceptable to the state. At the request of CARB staff this amendment would limit future Requests for Exemption to areas, such as Iowa Hill, where the zip code sub-area has a population density of less than or equal to 3.0 persons per square mile. Other exemptions provided for in State's Airborne Toxic Control Measure to Reduce

Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning could not be sought nor could they be obtained. Note: The request for exemption submitted by the District was approved by CARB in a letter dated August 31, 2018, with the exemption expiring December 31, 2023.

At the same time another small change to this rule was identified and is proposed under Section 303 Burn Permits. Section 303.2 is being changed to a note as it was not the District's intent to enforce a requirement that a residential burn permit may be required by a fire agency.

**Fiscal Impact:** The amendment of Rule 305 is not likely to have a significant fiscal impact upon the District or the public, except that with this amendment, and the approval by CARB of Requests for Exemption for the Iowa Hill sub-area, paper and cardboard may be burned and need not be hauled to a solid waste disposal site.

**Public Comment:** The public hearing was noticed on September 9, 2018, 30 days before the District's Board Meeting on October 11, 2018, in the Auburn Journal, a newspaper of general circulation. The proposed rule amendments were also posted on the District's webpage. As of this writing, there has been no written public comment.

**Recommendation:**

- 1) Adopt Resolution #18-15 (Attachment #1), thereby approving Rule 305, Residential Allowable Burning, as amended and as shown in Exhibit I of the Resolution.
- 2) Adopt and approve the Findings in the Staff Report (Attachment #2).

**Attachments:** #1: Resolution #18-15, Approval of Rule 305, Residential Allowable Burning, as amended and as shown in Resolution Exhibit I.  
#2: Staff Report

**ATTACHMENT #1**

**SUBJECT:**

**Resolution #18-15**

Before the Placer County  
Air Pollution Control District Board of Directors

**In the Matter Of:** The adoption of Rule 305, Residential Allowable Burning, as amended and as shown in Exhibit I.

The following **RESOLUTION** was duly passed by the Placer County Air Pollution Control District Board of Directors at a regular meeting held on **October 11, 2018** by the following vote:

Ayes: Alvord ☒ Berlant ☒ Duncan ☒ Harvey absent Holmes ☒  
Montgomery absent Nader ☒ Patterson ☒ Weygandt ☒

Alternates: \_\_\_\_\_

Noes: Alvord \_\_\_\_\_ Berlant \_\_\_\_\_ Duncan \_\_\_\_\_ Harvey \_\_\_\_\_ Holmes \_\_\_\_\_  
Montgomery \_\_\_\_\_ Nader \_\_\_\_\_ Patterson \_\_\_\_\_ Weygandt \_\_\_\_\_

Alternates: \_\_\_\_\_

Abstain: Alvord \_\_\_\_\_ Berlant \_\_\_\_\_ Duncan \_\_\_\_\_ Harvey \_\_\_\_\_ Holmes \_\_\_\_\_  
Montgomery \_\_\_\_\_ Nader \_\_\_\_\_ Patterson \_\_\_\_\_ Weygandt \_\_\_\_\_

Alternates: \_\_\_\_\_

Signed and approved by me after its passage:

 \_\_\_\_\_ Chairperson

 \_\_\_\_\_ Attest: Clerk of said Board

**WHEREAS**, Section 40001 of the Health and Safety Code of the State of California authorizes the Placer County Air Pollution Control District, to adopt and enforce Rules and Regulations to achieve and maintain ambient air quality standards within the District; and

**WHEREAS**, Section 40702 of the Health and Safety Code of the State of California requires a district to adopt rules and regulations and do such acts as may be necessary or proper to execute the powers and duties granted; and



**WHEREAS**, the Board of Directors (Board) of the Placer County Air Pollution Control District (District) is authorized to adopt rules and regulations and do such acts as may be necessary or proper to execute the powers and duties granted by Health and Safety Code Sections 40001, 40702, 40716, 41010, and 41013 (Health and Safety Code Section 40727(b)(2)); and

**WHEREAS**, the Board has determined that a need exists to amend Rule 305 to make necessary clarification and improvement changes identified by California Air Resources Board (CARB) staff; and

**WHEREAS**, the Board has determined that the meaning of the amended Rule 305 can be easily understood by the persons directly affected by it (Health and Safety Code Section 40727(b)(3)); and

**WHEREAS**, the Board has determined that the amended Rule 305 is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations (Health and Safety Code Section 40727(b)(4)); and

**WHEREAS**, the Board has maintained records of the rulemaking proceedings (Health and Safety Code Section 40728); and

**WHEREAS**, the Board has made the findings pursuant to Health and Safety Code Section 40727, of necessity, authority, clarity, consistency, non-duplication, and reference in regard to the proposed amended rule; and,

**WHEREAS**, the District has considered the relative cost effectiveness of the amended measure as well as other factors, as required by Health and Safety Code Section 40922, and made reasonable efforts to determine the direct costs expected to be incurred by regulated parties pursuant to Health and Safety Code Section 40703; and

**WHEREAS**, the District finds that the proposed amended Rule 305 is exempt from the California Environmental Quality Act (CEQA) because (1) it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment (CEQA Guidelines §15061(b)(3)) and (2) it is as an action by a regulatory agency for protection of the environment (Class 8 Categorical Exemption, CEQA Guidelines §15308); and

**WHEREAS**, these proceedings were held in a public hearing and were properly noticed pursuant to Section 40725 of the Health and Safety Code of the State of California; with any evidence having been received concerning the proposed adoption of this Resolution and this Board having duly considered such evidence; and

**WHEREAS**, the Board has determined that a need exists to amend Rule 305 to clarify those areas that are exempted from State's Airborne Toxic Control Measure (ATCM) to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning and allow burn barrels to be used for the burning of dry paper or cardboard comports with the exemption provisions of the ATCM; and

**WHEREAS**, when the burning of dry paper and cardboard is allowed by exemption, the use of a burn barrel is preferred versus unconfined burning, from a fire hazard perspective; and

**NOW, THEREFORE BE IT RESOLVED** that this Board adopts the amendment to Rule 305, Residential Allowable Burning, of Regulation 3, Open Burning, as shown in Exhibit I.

**BE IT RESOLVED AND ORDERED** that the Air Pollution Control Officer is hereby authorized and directed to submit this adopted rule in the form required by CARB, on behalf of the District, and to request that CARB adopt this rule into the California State Implementation Plan (SIP) and that CARB submit this rule to the United States Environmental Protection Agency for approval of this rule as a revision to the SIP, and to perform such acts as are necessary to carry out the purpose of this resolution.

Exhibit:        I:        Rule 305, Residential Allowable Burning (as amended)

**Exhibit I**

**Rule 305, Residential Allowable Burning, as amended**

# **RULE 305 RESIDENTIAL ALLOWABLE BURNING**

Adopted 02-10-11  
(Amended 02-09-12, 08-09-18, 10-11-18)

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### **400 ADMINISTRATIVE REQUIREMENTS (None)**

### **500 MONITORING AND RECORDS (None)**

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## 100 GENERAL

**101 PURPOSE:** To reduce emissions of toxic air contaminants from smoke from allowed outdoor burning at a residence, of allowable combustibles originating, on the premises where burned.

## 102 APPLICABILITY

102.1 This rule shall apply to persons conducting outdoor burning of residential allowable combustibles.

102.2 Title 17 of the California Code of Regulations for the Airborne Toxic Control Measure (ATCM) to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning.

## 103 EXEMPTIONS

### 103.1 Rule Exemptions

103.1.1 Burning conducted pursuant to Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.2 Burning conducted pursuant to Rule 302, AGRICULTURAL WASTE BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.3 Burning conducted pursuant to Rule 303, PRESCRIBED BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.4 Burning conducted pursuant to Rule 304, LAND DEVELOPMENT BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.5 Burning conducted pursuant to Rule 306, OPEN BURNING OF NONINDUSTRIAL WOOD WASTE AT DESIGNATED DISPOSAL SITES is exempt from this Rule.

103.2 Exempt Areas: Effective January 1, 2004, the burning of dry, non-glossy paper and cardboard, or the use of a burn barrel, or both, is not allowed unless an exemption has been approved by the District Board of Directors that meets all the following subsections 103.2.1 through 103.2.7.

103.2.1 Burning is only conducted on burn days, and

103.2.2 The dry, non-glossy paper and cardboard to be burned originates from, and will be burned on, the premises of a residence, and

103.2.3 The residence is not in an incorporated place; and

103.2.4 The residence lies within a sub-area for which the District can request an exemption based on a population density of less than or equal to 3.0 persons per square mile as calculated from the last decennial United States Census Data; and

103.2.5 The residence is in an area not served on a weekly basis by an organized waste disposal service; and

103.2.6 The residence does not lie within the boundary of a jurisdiction which prohibits the burning of dry, non-glossy paper and cardboard as of January 4, 2002, or thereafter.



103.2.7 Within the boundaries of the zip code sub-area, if the population density remains equal to or below 3.0 persons per square mile the air district may renew the exemption every five years for census zip code sub-area pursuant to Section 93113(e), Title 17 of the California Code of Regulations.

**200 DEFINITIONS:** (Unless otherwise defined below, the terms used in this Rule are as defined in Rule 102, DEFINITIONS or Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT.)

**201 ALLOWABLE COMBUSTIBLES:** Vegetation originating on the premises of a residence, limited to the following: dry trees and trimmings, dry brush/shrubs, dry leaves, pine needles, grasses and forbs, dry plants and flowers, dry weeds, and dry vines. Lawn clippings, oleander (*nerium oleander*), cannabis, and poison oak (*toxicodendron diversilobum*) are excluded. Vegetation that is not reasonably free of dirt, soil, and visible surface moisture, is not an allowed combustible.

**202 BURN BARREL:** A metal container used to hold combustible or flammable waste materials, so that they can be ignited outdoors for purpose of disposal.

**203 CANNABIS OR MARIJUANA:** These terms shall be used interchangeably and mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, including marijuana as defined by California Health and Safety Code Section 11018, as may be amended, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The prohibitions of Section 302 of this Rule also apply to "industrial hemp" as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

**204 COMBUSTIBLE:** Any substance capable of burning or any substance that will readily burn.

**205 DISALLOWED COMBUSTIBLES:** Any waste or manufactured material, including but not limited to petroleum products and petroleum wastes; construction and demolition debris; coated wire; putrescible (rotten wastes) and non-putrescible solid, semisolid and liquid materials or wastes; tires; tar; tarpaper; non-natural wood waste; processed or treated wood and wood products; metals; motor vehicle bodies and parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; manufactured products; equipment; instruments; utensils; appliances; furniture; cloth; rags; paper or paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of a dead animal; manure; human or animal parts or wastes, including blood; and fecal- and food-contaminated material.

**206 NO-BURN DAY:** Any day on which agricultural burning, including residential burning, is prohibited by the ARB or the APCO.

**207 OPEN BURNING OR OPEN OUTDOOR:** Burning of any combustibles of any type, outdoors in the open air, where the products of combustion are not directed through a flue.

**208 PERMISSIVE BURN DAY OR BURN DAY:** Any day in which agricultural burning including residential burning, is not prohibited by the ARB and/or the APCO.

**209 RESIDENCE:** A single or two-family dwelling unit and the land and ancillary surrounding (nonresidential) structures.

## 300 STANDARDS

- 301 PROHIBITIONS ON OPEN BURNING:** Except as provided in Regulation 3, no person shall use an open outdoor fire (including the use of a burn barrel) for the purpose of disposal or burning of any disallowed combustibles.
- 302 RESIDENTIAL ALLOWABLE BURNING:** Only allowable combustibles, originating at a residence, and free of disallowed combustibles, and reasonably free from dirt, soil, and visible surface moisture, may be burned in an open outdoor burn pile. Burning in a burn barrel is prohibited.
- 303 BURN PERMITS:** A District burn permit is not required for residential allowable burning.
- NOTE: A separate burn permit may be required from the fire protection agency that has jurisdiction in the area of the residential allowable burning.
- 304 BURN DAYS:** No person shall knowingly ignite, or allow ignition of allowable combustibles on no-burn days or when it is prohibited by a fire protection agency.
- 305 VEGETATION PREPARATION AND DRYING TIMES:** To assure rapid and complete combustion with a minimum of smoke, and to lower the moisture content of the vegetation being burned, (from when the vegetation was cut and is to be burned), the following are drying times.
- 305.1 No vegetation shall be burned unless it is free of disallowed combustibles, dirt, soil, and surface moisture and shall be burned in a manner to prevent excessive smoke. Excessive smoke is that which causes a nuisance.
- 305.2 Vegetation stacked for burning shall not be burned unless it is stacked in such a manner to promote drying and ensure combustion with a minimum amount of smoke.
- 305.3 A minimum of 15 days of drying time for fine prunings or cuttings less than 3 inches in diameter, at the cut end.
- 305.4 A minimum of three to six weeks of drying time, for prunings or brush or small branches 3 to 6 inches in diameter, at the cut end.
- 305.5 A minimum of six weeks of drying time for trees, stumps and large branches greater than 6 inches in diameter, at the cut end.
- 305.6 Vegetation or stumps, greater than 12 inches in diameter, shall not be burned unless they are split smaller than 12 inches in diameter and are free of dirt.
- 306 APPROVED IGNITION DEVICES:** All open fires as authorized by this regulation shall be ignited only with approved ignition devices. The vegetation to be burned should be ignited as rapidly as practicable within applicable fire control restrictions.
- 307 WIND DIRECTION:** Burning shall be curtailed when smoke is drifting into a nearby populated area or when it is or may become a nuisance or hazard.
- 308 DETERMINATION OF AMOUNT BURNED DAILY:** Only that amount of vegetation that can be reasonably expected to burn completely within 24 hours of ignition unless the burn hours are further restricted.

**400 ADMINISTRATIVE REQUIREMENTS** (None)

**500 MONITORING AND RECORDS** (None)

**ATTACHMENT #2**

**SUBJECT:**

**Staff Report**

**PLACER COUNTY  
AIR POLLUTION CONTROL DISTRICT**

**PROPOSED RULE AMENDMENTS TO  
Rule 305, Residential Allowable Burning**

**STAFF REPORT**

**October 11, 2018**

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## **Executive Summary**

The purpose of the amendment of the Placer County Air Pollution District's ("District") Rule 305, Residential Allowable Burning, is to clarify language in Section 103.2 Exempt areas along with a minor change in Section 303 Burn Permits.

Rule 305, Section 103.2, is amended to allow the use of burn barrels to burn dry paper or cardboard for a residence in an area that has been exempted from the State Airborne Toxics Control Measure for outdoor residential waste burning. Section 303 is amended to make the previous Subsection 303.2 a note, to show that the mention of burn permits required by fire agencies is not a requirement of the District.

## **Discussion**

Rule 305, was last amended on August 9, 2018, to add a definition for Cannabis or Marijuana that included both growing and processing. Industrial hemp was included in this definition, so that District Staff do not have to discriminate between industrial hemp and cannabis that is grown for consumption. The amendments prohibited the open burning of waste from the growing or processing of cannabis. In addition, Section 103.2 of Rule 305 was amended to allow burn barrels to be used for the burning of dry paper or cardboard. Although the amended rule was submitted to the California Air Resources Board (CARB) as a requested revision to the State Implementation Plan (SIP), it has been withdrawn and will be superseded by the proposed amended rule if adopted.

Prior to this amendment, on February 9, 2012, all six rules of Regulation 3, Open burning, were amended to address comments made by U.S. EPA and to make non-substantive changes. The rules had been substantially changed, the year before, in 2011 with further amendments in 2012. The six amended rules were subsequently approved by U.S. EPA as revisions to the SIP.

U.S. EPA, in the Technical Support Document that accompanied the Federal Register Notice approving the six rules that were adopted by the District Board on February 9, 2012, as SIP revisions, made the following 3 recommendations:

- Rule 203, Exceptions to Rule 202, contains several references to prior open burning rules (e.g., Rules 315 and 320). For clarification of the allowed exemptions and enforceability, update these references in Rule 203 and resubmit this rule to the SIP.
- Remove the exemption for residential burning of vegetative waste from burn permit requirements and restrict residential burning activity to daytime hours (e.g., Monterey Bay Unified Air Pollution Control District Rule 438 and North Coast Unified Air Quality Management District Rules 200-208). The largest California air districts ban residential/backyard burning entirely (e.g., Bay Area Air Quality Management District Regulation 5, San Joaquin Valley Unified Air Pollution Control District Rule 4103, and South Coast Air Quality Management District Rule 444).

- We encourage the District to examine the feasibility of banning agricultural burning for specific crop types that have economically and technologically feasible alternatives to burning (e.g., San Joaquin Valley Unified Air Pollution Control District Rule 4103).

The amendment of Rule 305 that is proposed does not make any changes to address these recommendations of U.S. EPA.

Following the amendment to Rule 305 on August 9, 2018 District Staff were contacted by CARB staff regarding the adopted August 2018 changes with respect to the use of a burn barrel. CARB staff are concerned that the newly adopted language implies that the District could allow those areas of the county that may have qualified for an exemption to use burn barrels, but did not have an exemption, to now be eligible for an exemption. Those areas of Placer County that had not previously requested an exemption are no longer eligible.

The proposed change in language is to clarify that the use of burn barrels is only in those areas which have previously been approved through the submittal and approval of a Request for Exemption to the CARB.

District Staff are proposing the following amendments, which are summarized below:

- Rule 305, Residential Allowable Burning, be amended to provide clarity with the provisions of the State's Airborne Toxic Control Measure to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning as per discussions with CARB staff. The Iowa Hill sub-area of Placer County is the only Placer County community where dry paper and cardboard is currently allowed to be under a state approved exemption. If the exemption is extended, allowing burning in burn barrels is preferred over open pile burning as it presents a reduced fire hazard.

Section 103.2 be amended to align the census zip code sub-area renewal with the state's requirement that the renewal is required every five years, as follows:

103.2 Effective January 1, 2004, the burning of dry, non-glossy paper and cardboard, or the use of a burn barrels, or both, ~~is not~~ may be allowed unless if an exemption has been approved by the District Board of Directors that meets all the following subsections 103.2.1 through 103.2.76.

...

103.2.4 The residence lies within a sub-area for which the District can request an exemption based on a population density of less than or equal to 3.0 persons per square mile as calculated from the last decennial United States Census Data; and.

~~boundaries of a census zip code or census zip code sub-area, within the district where the population density is equal to or less than 10.0 persons, as calculated from the last decennial United States Census Data; and~~

...

- 103.2.57 Within the boundaries of the ~~census zip code or~~ zip code sub-area, if the population density remains equal to or below ~~103.0 persons per square mile~~ the air district may renew the exemption ~~every ten years for a census zip code and every five years for census zip code sub-area pursuant to Section 93113(e), Title 17 of the California Code of Regulations.~~

[Note: The Iowa Hill area of Placer County is the only sub-area area in Placer County that currently meets the state's requirements for an exemption. The exemption was first requested by the District and approved by CARB in 2005, renewed in 2013, and a subsequent renewal of the 5-year exemption to December 31, 2023, was requested by the District in a submittal dated July 12, 2018. The request was approved in a letter from CARB dated August 31, 2018, with the exemption expiring on December 31, 2023. At the request of CARB, this amendment would limit future Requests for Exemption to areas, such as Iowa Hill, where the zip code sub-area has a population density of less than or equal to 3.0 persons per square mile. Other exemptions provided for in State's Airborne Toxic Control Measure to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning could not be sought nor obtained.]

- Amendment of Section 303, Burn Permits, be amended to clarify the language in this section so that the statement regarding separate burn permits issued by fire agencies is a note and does not have the appearance of a District requirement. The District does not enforce the separate requirement of fire protection agencies for burn permits.

**303 BURN PERMITS:** ~~303.1~~—A District burn permit is not required for residential allowable burning.

NOTE: ~~303.2~~—A separate burn permit may ~~also~~ be required from the fire protection agency that has jurisdiction in the area of the residential allowable burning.

In conclusion, District Staff are proposing to amend Rule 305 with clearer language to permit the use of burn barrels to burn dry paper or cardboard in an area that has been exempted from the State Airborne Toxics Control Measure for outdoor residential waste burning, along with a clarification to the language in Section 303.

## **Public Outreach**

The public hearing was noticed 30-days before the District's Board Meeting on September 9, 2018, in the Auburn Journal, a newspaper of general circulation. The proposed rule amendments were also posted on the District's webpage.

As of this writing, there has been no written public comment.

## **Analysis and Findings**

The following Analysis and the subsequent Findings are intended to address the requirements set forth in the California Health and Safety Code relating to the adoption of a new or amended District Rule, as well as other State statutes referenced herein.

### Cost-Effectiveness of a Control Measure

California Health & Safety Code (H&S) Section 40703 requires a District consider and make public "the cost-effectiveness of a control measure". The adoption of amendments to Regulation 3, Rules 305, is not expected to increase costs to the District. Currently, Iowa Hill has an exemption to use burn barrels for the burning of non-glossy paper and cardboard since they are a long distance from the nearest solid waste disposal facility, and do not have garbage service. The amendments otherwise clarify the language to continue to use a burn barrel in that area. The change in the burn permit language also is not expected to have any affect as it too is clarifying language.

### Socioeconomic Impact

Health and Safety Code Section 40728, in relevant part, requires the Board to consider the socioeconomic impact of any new rule if air quality or emission limits are significantly affected. However, Districts with a population of less than 500,000 persons are exempted from the socioeconomic analysis. In 2015, the population of Placer County was approximately 375,391 persons (US Census Bureau), which means that the District is exempt from this requirement.

### California Environmental Quality Act (CEQA)

The changes in Regulation 3, Rules 305, to extend the state's exemption on the burning of dry paper and cardboard to include the use of a burn barrel for burning will likely not result in an increase or decrease in material burned, and may result in improved combustion and less emissions if a burn barrel is used. The use of a burn barrel would have the significant collateral benefit of reducing the likelihood that the fire would escape. California Public Resources Code Section 21159 requires that an environmental analysis of the reasonably foreseeable methods of compliance be conducted. Compliance with the proposed changes to Regulation 3, Rule 305 is expected to result in no change in emissions or a reduction in emissions. Therefore, the proposed regulation and rule changes will not cause any

significant adverse effects on the environment and may result in reducing impacts. The exemption of Section 103.2 currently applies to the Iowa Hill zip code sub-area. The amendment clarifies that only those areas which have requested and received an approved exemption may continue to use burn barrels for the burning of paper and cardboard as requirements in the future.

District Staff finds that the proposed rule is exempt from the California Environmental Quality Act (CEQA) because 1) the changes proposed are administrative or will lessen emission impacts from burning and are not expected to have a significant adverse effect on the environment (CEQA Guidelines §15061(b)(3)) and 2) it is an action by a regulatory agency for protection of the environment (Class 8 Categorical Exemption, CEQA Guidelines §15308).

### Findings

- A. **Necessity** – The changes to Regulation 3, Rules 305 is necessary for the district to request an exemption from State's Airborne Toxic Control Measure to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning to provide for a means of burning dry paper and cardboard in a burn barrel, where trash collection services are not available and there is a low population, and to make clear that the District is not enforcing the issuance of a fire agency burn permit for residential burning.
- B. **Authority** – California Health and Safety Code, Sections 40000, 40001, 40701, and 40702 are provisions of law that provide the District with the authority to amend these Rules.
- C. **Clarity** – The proposed changes are expected to be easily understood.
- D. **Consistency** – The rules are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.
- E. **Non-duplication** – The regulation does not impose the same requirements as an existing state or federal regulation.
- F. **Reference** – All statutes, court decisions, and other provisions of law used by the District in interpreting this regulation are incorporated into this analysis and this finding by reference.

### **Exhibits**

Exhibit 1: Rule 305 - Residential Allowable Burning (shown with amendments)

## **EXHIBIT 1**

**Rule 305, Residential Allowable Burning  
With Amendments Shown**

# RULE 305 RESIDENTIAL ALLOWABLE BURNING

Adopted 02-10-11  
(Amended 02-09-12, 08-09-18, 10-11-18)

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- 306 APPROVED IGNITION DEVICES
- 307 WIND DIRECTION
- 308 DETERMINATION OF AMOUNT BURNED DAILY

### 400 ADMINISTRATIVE REQUIREMENTS (None)

### 500 MONITORING AND RECORDS (None)

PROPOSED

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## 100 GENERAL

**101 PURPOSE:** To reduce emissions of toxic air contaminants from smoke from allowed outdoor burning at a residence, of allowable combustibles originating, on the premises where burned.

### 102 APPLICABILITY

102.1 This rule shall apply to persons conducting outdoor burning of residential allowable combustibles.

102.2 Title 17 of the California Code of Regulations for the Airborne Toxic Control Measure (ATCM) to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning.

### 103 EXEMPTIONS

#### 103.1 Rule Exemptions

103.1.1 Burning conducted pursuant to Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.2 Burning conducted pursuant to Rule 302, AGRICULTURAL WASTE BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.3 Burning conducted pursuant to Rule 303, PRESCRIBED BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.4 Burning conducted pursuant to Rule 304, LAND DEVELOPMENT BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.5 Burning conducted pursuant to Rule 306, ~~OF~~ OPEN BURNING OF NONINDUSTRIAL WOOD WASTE AT DESIGNATED DISPOSAL SITES is exempt from this Rule.

103.2 Exempt Areas: Effective January 1, 2004, the burning of dry, non-glossy paper and cardboard, or the use of a burn barrels, or both, ~~is not may be~~ allowed unless ~~if~~ an exemption has been approved by the District Board of Directors that meets all the following subsections 103.2.1 through 103.2.76.

103.2.1 Burning is only conducted on burn days, and

103.2.2 The dry, non-glossy paper and cardboard to be burned originates from, and will be burned on, the premises of a residence, and

103.2.3 The residence is not in an incorporated place; and

103.2.4 The residence lies within a sub-area for which the District can request an exemption based on a population density of less than or equal to 3.0 persons per square mile as calculated from the last decennial United States Census Data; and the boundaries of a census zip code or census zip code sub-area, within the district where the population density is equal to or less than 10.0 persons, as calculated from the last decennial United States Census Data; and

103.2.5 The residence is in an area not served on a weekly basis by an organized waste disposal service; and

103.2.6 The residence does not lie within the boundary of a jurisdiction which prohibits the burning of dry, non-glossy paper and cardboard as of January 4, 2002, or thereafter.

103.2.~~57~~ Within the boundaries of the ~~census zip code or~~ zip code sub-area, if the population density remains equal to or below ~~403.0~~ persons ~~per square mile~~ the air district may renew the exemption ~~every ten years for a census zip code and~~ every five years for census zip code sub-area pursuant to Section 93113(e), Title 17 of the California Code of Regulations.

**200 DEFINITIONS:** (Unless otherwise defined below, the terms used in this Rule are as defined in Rule 102, DEFINITIONS or Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT.)

**201 ALLOWABLE COMBUSTIBLES:** Vegetation originating on the premises of a residence, limited to the following: dry trees and trimmings, dry brush/shrubs, dry leaves, pine needles, grasses and forbs, dry plants and flowers, dry weeds, and dry vines. Lawn clippings, oleander (*nerium oleander*), cannabis, and poison oak (*toxicodendron diversilobum*) are excluded. Vegetation that is not reasonably free of dirt, soil, and visible surface moisture, is not an allowed combustible.

**202 BURN BARREL:** A metal container used to hold combustible or flammable waste materials, so that they can be ignited outdoors for purpose of disposal.

**203 CANNABIS OR MARIJUANA:** These terms shall be used interchangeably and mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, including marijuana as defined by California Health and Safety Code Section 11018, as may be amended, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The prohibitions of Section 302 of this Rule also apply to "industrial hemp" as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

**204 COMBUSTIBLE:** Any substance capable of burning or any substance that will readily burn.

**205 DISALLOWED COMBUSTIBLES:** Any waste or manufactured material, including but not limited to petroleum products and petroleum wastes; construction and demolition debris; coated wire; putrescible (rotten wastes) and non-putrescible solid, semisolid and liquid materials or wastes; tires; tar; tarpaper; non-natural wood waste; processed or treated wood and wood products; metals; motor vehicle bodies and parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; manufactured products; equipment; instruments; utensils; appliances; furniture; cloth; rags; paper or paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of a dead animal; manure; human or animal parts or wastes, including blood; and fecal- and food-contaminated material.

**206 NO-BURN DAY:** Any day on which agricultural burning, including residential burning, is prohibited by the ARB or the APCO.

**207 OPEN BURNING OR OPEN OUTDOOR:** Burning of any combustibles of any type, outdoors in the open air, where the products of combustion are not directed through a flue.

**208 PERMISSIVE BURN DAY OR BURN DAY:** Any day in which agricultural burning including residential burning, is not prohibited by the ARB and/or the APCO.

**209 RESIDENCE:** A single or two-family dwelling unit and the land and ancillary surrounding (nonresidential) structures.

### **300 STANDARDS**

**301 PROHIBITIONS ON OPEN BURNING:** Except as provided in Regulation 3, no person shall use an open outdoor fire (including the use of a burn barrel) for the purpose of disposal or burning of any disallowed combustibles.

**302 RESIDENTIAL ALLOWABLE BURNING:** Only allowable combustibles, originating at a residence, and free of disallowed combustibles, and reasonably free from dirt, soil, and visible surface moisture, may be burned in an open outdoor burn pile. Burning in a burn barrel is prohibited.

#### **303 BURN PERMITS:**

~~303.1~~—A District burn permit is not required for residential allowable burning.

NOTE: ~~303.2~~—A separate burn permit may ~~also~~ be required from the fire protection agency that has jurisdiction in the area of the residential allowable burning.

**304 BURN DAYS:** No person shall knowingly ignite, or allow ignition of allowable combustibles on no-burn days or when it is prohibited by a fire protection agency.

**305 VEGETATION PREPARATION AND DRYING TIMES:** To assure rapid and complete combustion with a minimum of smoke, and to lower the moisture content of the vegetation being burned, (from when the vegetation was cut and is to be burned), the following are drying times.

305.1 No vegetation shall be burned unless it is free of disallowed combustibles, dirt, soil, and surface moisture and shall be burned in a manner to prevent excessive smoke. Excessive smoke is that which causes a nuisance.

305.2 Vegetation stacked for burning shall not be burned unless it is stacked in such a manner to promote drying and ensure combustion with a minimum amount of smoke.

305.3 A minimum of 15 days of drying time for fine prunings or cuttings less than 3 inches in diameter, at the cut end.

305.4 A minimum of three to six weeks of drying time, for prunings or brush or small branches 3 to 6 inches in diameter, at the cut end.

305.5 A minimum of six weeks of drying time for trees, stumps and large branches greater than 6 inches in diameter, at the cut end.

305.6 Vegetation or stumps, greater than 12 inches in diameter, shall not be burned unless they are split smaller than 12 inches in diameter and are free of dirt.

**306 APPROVED IGNITION DEVICES:** All open fires as authorized by this regulation shall be ignited only with approved ignition devices. The vegetation to be burned should be ignited as rapidly as practicable within applicable fire control restrictions.

**307 WIND DIRECTION:** Burning shall be curtailed when smoke is drifting into a nearby populated area or when it is or may become a nuisance or hazard.

**308 DETERMINATION OF AMOUNT BURNED DAILY:** Only that amount of vegetation that can be reasonably expected to burn completely within 24 hours of ignition unless the burn hours are further restricted.

**400 ADMINISTRATIVE REQUIREMENTS** (None)

**500 MONITORING AND RECORDS** (None)

PROPOSED

# RULE 305 RESIDENTIAL ALLOWABLE BURNING

Adopted 02-10-11  
(Amended 02-09-12, 08-09-18, 10-11-18)

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### 400 ADMINISTRATIVE REQUIREMENTS (None)

### 500 MONITORING AND RECORDS (None)

PROPOSED

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## 100 GENERAL

**101 PURPOSE:** To reduce emissions of toxic air contaminants from smoke from allowed outdoor burning at a residence, of allowable combustibles originating, on the premises where burned.

### 102 APPLICABILITY

102.1 This rule shall apply to persons conducting outdoor burning of residential allowable combustibles.

102.2 Title 17 of the California Code of Regulations for the Airborne Toxic Control Measure (ATCM) to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning.

### 103 EXEMPTIONS

#### 103.1 Rule Exemptions

103.1.1 Burning conducted pursuant to Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.2 Burning conducted pursuant to Rule 302, AGRICULTURAL WASTE BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.3 Burning conducted pursuant to Rule 303, PRESCRIBED BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.4 Burning conducted pursuant to Rule 304, LAND DEVELOPMENT BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.5 Burning conducted pursuant to Rule 306, ~~OF~~ OPEN BURNING OF NONINDUSTRIAL WOOD WASTE AT DESIGNATED DISPOSAL SITES is exempt from this Rule.

103.2 Exempt Areas: Effective January 1, 2004, the burning of dry, non-glossy paper and cardboard, or the use of a burn barrels, or both, ~~is not may be~~ allowed unless ~~if~~ an exemption has been approved by the District Board of Directors that meets all the following subsections 103.2.1 through 103.2.76.

103.2.1 Burning is only conducted on burn days, and

103.2.2 The dry, non-glossy paper and cardboard to be burned originates from, and will be burned on, the premises of a residence, and

103.2.3 The residence is not in an incorporated place; and

103.2.4 The residence lies within a sub-area for which the District can request an exemption based on a population density of less than or equal to 3.0 persons per square mile as calculated from the last decennial United States Census Data; and the boundaries of a census zip code or census zip code sub-area, within the district where the population density is equal to or less than 10.0 persons, as calculated from the last decennial United States Census Data; and

103.2.5 The residence is in an area not served on a weekly basis by an organized waste disposal service; and



103.2.6 The residence does not lie within the boundary of a jurisdiction which prohibits the burning of dry, non-glossy paper and cardboard as of January 4, 2002, or thereafter.

103.2.57 Within the boundaries of the ~~census zip code or~~ zip code sub-area, if the population density remains equal to or below ~~403.0~~ persons ~~per square mile~~ the air district may renew the exemption ~~every ten years for a census zip code and~~ every five years for census zip code sub-area pursuant to Section 93113(e), Title 17 of the California Code of Regulations.

**200 DEFINITIONS:** (Unless otherwise defined below, the terms used in this Rule are as defined in Rule 102, DEFINITIONS or Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT.)

**201 ALLOWABLE COMBUSTIBLES:** Vegetation originating on the premises of a residence, limited to the following: dry trees and trimmings, dry brush/shrubs, dry leaves, pine needles, grasses and forbs, dry plants and flowers, dry weeds, and dry vines. Lawn clippings, oleander (*nerium oleander*), cannabis, and poison oak (*toxicodendron diversilobum*) are excluded. Vegetation that is not reasonably free of dirt, soil, and visible surface moisture, is not an allowed combustible.

**202 BURN BARREL:** A metal container used to hold combustible or flammable waste materials, so that they can be ignited outdoors for purpose of disposal.

**203 CANNABIS OR MARIJUANA:** These terms shall be used interchangeably and mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, including marijuana as defined by California Health and Safety Code Section 11018, as may be amended, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The prohibitions of Section 302 of this Rule also apply to "industrial hemp" as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

**204 COMBUSTIBLE:** Any substance capable of burning or any substance that will readily burn.

**205 DISALLOWED COMBUSTIBLES:** Any waste or manufactured material, including but not limited to petroleum products and petroleum wastes; construction and demolition debris; coated wire; putrescible (rotten wastes) and non-putrescible solid, semisolid and liquid materials or wastes; tires; tar; tarpaper; non-natural wood waste; processed or treated wood and wood products; metals; motor vehicle bodies and parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; manufactured products; equipment; instruments; utensils; appliances; furniture; cloth; rags; paper or paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of a dead animal; manure; human or animal parts or wastes, including blood; and fecal- and food-contaminated material.

**206 NO-BURN DAY:** Any day on which agricultural burning, including residential burning, is prohibited by the ARB or the APCO.

**207 OPEN BURNING OR OPEN OUTDOOR:** Burning of any combustibles of any type, outdoors in the open air, where the products of combustion are not directed through a flue.

**208 PERMISSIVE BURN DAY OR BURN DAY:** Any day in which agricultural burning including residential burning, is not prohibited by the ARB and/or the APCO.



**209 RESIDENCE:** A single or two-family dwelling unit and the land and ancillary surrounding (nonresidential) structures.

### **300 STANDARDS**

**301 PROHIBITIONS ON OPEN BURNING:** Except as provided in Regulation 3, no person shall use an open outdoor fire (including the use of a burn barrel) for the purpose of disposal or burning of any disallowed combustibles.

**302 RESIDENTIAL ALLOWABLE BURNING:** Only allowable combustibles, originating at a residence, and free of disallowed combustibles, and reasonably free from dirt, soil, and visible surface moisture, may be burned in an open outdoor burn pile. Burning in a burn barrel is prohibited.

**303 BURN PERMITS:**

~~303.1~~—A District burn permit is not required for residential allowable burning.

NOTE: ~~303.2~~—A separate burn permit may ~~also~~ be required from the fire protection agency that has jurisdiction in the area of the residential allowable burning.

**304 BURN DAYS:** No person shall knowingly ignite, or allow ignition of allowable combustibles on no-burn days or when it is prohibited by a fire protection agency.

**305 VEGETATION PREPARATION AND DRYING TIMES:** To assure rapid and complete combustion with a minimum of smoke, and to lower the moisture content of the vegetation being burned, (from when the vegetation was cut and is to be burned), the following are drying times.

305.1 No vegetation shall be burned unless it is free of disallowed combustibles, dirt, soil, and surface moisture and shall be burned in a manner to prevent excessive smoke. Excessive smoke is that which causes a nuisance.

305.2 Vegetation stacked for burning shall not be burned unless it is stacked in such a manner to promote drying and ensure combustion with a minimum amount of smoke.

305.3 A minimum of 15 days of drying time for fine prunings or cuttings less than 3 inches in diameter, at the cut end.

305.4 A minimum of three to six weeks of drying time, for prunings or brush or small branches 3 to 6 inches in diameter, at the cut end.

305.5 A minimum of six weeks of drying time for trees, stumps and large branches greater than 6 inches in diameter, at the cut end.

305.6 Vegetation or stumps, greater than 12 inches in diameter, shall not be burned unless they are split smaller than 12 inches in diameter and are free of dirt.

**306 APPROVED IGNITION DEVICES:** All open fires as authorized by this regulation shall be ignited only with approved ignition devices. The vegetation to be burned should be ignited as rapidly as practicable within applicable fire control restrictions.

**307 WIND DIRECTION:** Burning shall be curtailed when smoke is drifting into a nearby populated area or when it is or may become a nuisance or hazard.

**308 DETERMINATION OF AMOUNT BURNED DAILY:** Only that amount of vegetation that can be reasonably expected to burn completely within 24 hours of ignition unless the burn hours are further restricted.

**400 ADMINISTRATIVE REQUIREMENTS** (None)

**500 MONITORING AND RECORDS** (None)

PROPOSED

# **RULE 305 RESIDENTIAL ALLOWABLE BURNING**

Adopted 02-10-11  
(Amended 02-09-12, 08-09-18, 10-11-18)

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- 103 EXEMPTIONS

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- 303 BURN PERMITS
- 304 BURN DAYS
- 305 VEGETATION PREPARATION AND DRYING TIMES
- 306 APPROVED IGNITION DEVICES
- 307 WIND DIRECTION
- 308 DETERMINATION OF AMOUNT BURNED DAILY

### **400 ADMINISTRATIVE REQUIREMENTS (None)**

### **500 MONITORING AND RECORDS (None)**

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## 100 GENERAL

**101 PURPOSE:** To reduce emissions of toxic air contaminants from smoke from allowed outdoor burning at a residence, of allowable combustibles originating, on the premises where burned.

### 102 APPLICABILITY

102.1 This rule shall apply to persons conducting outdoor burning of residential allowable combustibles.

102.2 Title 17 of the California Code of Regulations for the Airborne Toxic Control Measure (ATCM) to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning.

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103.1.5 Burning conducted pursuant to Rule 306, OPEN BURNING OF NONINDUSTRIAL WOOD WASTE AT DESIGNATED DISPOSAL SITES is exempt from this Rule.

103.2 Exempt Areas: Effective January 1, 2004, the burning of dry, non-glossy paper and cardboard, or the use of a burn barrel, or both, is not allowed unless an exemption has been approved by the District Board of Directors that meets all the following subsections 103.2.1 through 103.2.7.

103.2.1 Burning is only conducted on burn days, and

103.2.2 The dry, non-glossy paper and cardboard to be burned originates from, and will be burned on, the premises of a residence, and

103.2.3 The residence is not in an incorporated place; and

103.2.4 The residence lies within a sub-area for which the District can request an exemption based on a population density of less than or equal to 3.0 persons per square mile as calculated from the last decennial United States Census Data; and

103.2.5 The residence is in an area not served on a weekly basis by an organized waste disposal service; and

103.2.6 The residence does not lie within the boundary of a jurisdiction which prohibits the burning of dry, non-glossy paper and cardboard as of January 4, 2002, or thereafter.

103.2.7 Within the boundaries of the zip code sub-area, if the population density remains equal to or below 3.0 persons per square mile the air district may renew the exemption every five years for census zip code sub-area pursuant to Section 93113(e), Title 17 of the California Code of Regulations.

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## 300 STANDARDS

- 301 PROHIBITIONS ON OPEN BURNING:** Except as provided in Regulation 3, no person shall use an open outdoor fire (including the use of a burn barrel) for the purpose of disposal or burning of any disallowed combustibles.
- 302 RESIDENTIAL ALLOWABLE BURNING:** Only allowable combustibles, originating at a residence, and free of disallowed combustibles, and reasonably free from dirt, soil, and visible surface moisture, may be burned in an open outdoor burn pile. Burning in a burn barrel is prohibited.
- 303 BURN PERMITS:** A District burn permit is not required for residential allowable burning.
- NOTE: A separate burn permit may be required from the fire protection agency that has jurisdiction in the area of the residential allowable burning.
- 304 BURN DAYS:** No person shall knowingly ignite, or allow ignition of allowable combustibles on no-burn days or when it is prohibited by a fire protection agency.
- 305 VEGETATION PREPARATION AND DRYING TIMES:** To assure rapid and complete combustion with a minimum of smoke, and to lower the moisture content of the vegetation being burned, (from when the vegetation was cut and is to be burned), the following are drying times.
- 305.1 No vegetation shall be burned unless it is free of disallowed combustibles, dirt, soil, and surface moisture and shall be burned in a manner to prevent excessive smoke. Excessive smoke is that which causes a nuisance.
- 305.2 Vegetation stacked for burning shall not be burned unless it is stacked in such a manner to promote drying and ensure combustion with a minimum amount of smoke.
- 305.3 A minimum of 15 days of drying time for fine prunings or cuttings less than 3 inches in diameter, at the cut end.
- 305.4 A minimum of three to six weeks of drying time, for prunings or brush or small branches 3 to 6 inches in diameter, at the cut end.
- 305.5 A minimum of six weeks of drying time for trees, stumps and large branches greater than 6 inches in diameter, at the cut end.
- 305.6 Vegetation or stumps, greater than 12 inches in diameter, shall not be burned unless they are split smaller than 12 inches in diameter and are free of dirt.
- 306 APPROVED IGNITION DEVICES:** All open fires as authorized by this regulation shall be ignited only with approved ignition devices. The vegetation to be burned should be ignited as rapidly as practicable within applicable fire control restrictions.
- 307 WIND DIRECTION:** Burning shall be curtailed when smoke is drifting into a nearby populated area or when it is or may become a nuisance or hazard.
- 308 DETERMINATION OF AMOUNT BURNED DAILY:** Only that amount of vegetation that can be reasonably expected to burn completely within 24 hours of ignition unless the burn hours are further restricted.

**400 ADMINISTRATIVE REQUIREMENTS** (None)

**500 MONITORING AND RECORDS** (None)



## NOTICE OF PUBLIC HEARING

32686

**NOTICE OF PUBLIC HEARING  
PLACER COUNTY AIR POLLUTION CONTROL DISTRICT  
AMENDMENT OF RULE 305, RESIDENTIAL  
ALLOWABLE BURNING  
LEGAL NOTICE**

The Placer County Air Pollution Control District (District) is proposing the amendment of Rule 305, Residential Allowable Burning.

Rule 305, Section 103 - Exemptions, is amended to reflect greater clarity in allowing the use of burn barrels to burn dry paper or cardboard in an area exempted from the State Airborne Toxics Control Measure for outdoor residential waste burning. The Iowa Hill sub-area of Placer County is the only area currently exempted. Section 303 is amended for clarity that the District did not intend to imply the enforcement by the District of fire agency burn permits.

A public hearing to consider the adoption of the proposed amended Rule will be held on Thursday, October 11, 2018, at the regularly scheduled meeting of the Placer County Air Pollution Control District Board, beginning at 2:30 PM, at the Placer County Board of Supervisors' Chambers, 175 Fulweller Avenue, Auburn, California. Any interested person may attend this meeting and provide comment.

Copies of the proposed amended Rule and the staff report may be reviewed at the District Office at 110 Maple Street, Auburn, California, 95603, between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, and copies will be provided upon request or may be downloaded from the District webpage: <http://www.placerair.org>. Inquiries and written public comment are invited and may be directed to Ann Hobbs at [AHobbs@placer.ca.gov](mailto:AHobbs@placer.ca.gov) or (530) 745-2327. Written comments should be mailed to above address or e-mailed by September 28, 2018.

**PUBLISHED IN AUBURN JOURNAL: SEPTEMBER 9, 2018**

The above space is reserved for Court/County Filed Date Stamp


**PROOF OF PUBLICATION  
(2015.5 C.C.P.)**

**STATE OF CALIFORNIA  
County of Placer**

I am a citizen of the United States and employed by a publication in the County aforesaid. I am over the age of eighteen years, and not a party to the mentioned matter. I am the principal clerk of **The Auburn Journal**, a newspaper of general circulation, in the **City of Auburn**, which is printed and published in the **County of Placer**. This newspaper has been judged a newspaper of general circulation by the Superior Court of the State of California, in and for the **County of Placer**, on the date of May 26, 1952 (Case Number 17407). The notice, of which the attached is a printed copy (set in type not smaller than nonpareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

**SEPTEMBER 9**

I certify, under penalty of perjury, that the foregoing is true and correct.

  
Terry Clark

Dated in Auburn, California

**SEPTEMBER 9, 2018**

**PROOF OF PUBLICATION  
THE AUBURN JOURNAL  
1030 High Street  
Auburn, CA 95604**

**PLACER COUNTY  
AIR POLLUTION CONTROL DISTRICT**

**PROPOSED RULE AMENDMENTS TO  
Rule 305, Residential Allowable Burning**

**STAFF REPORT**

**October 11, 2018**

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## **Executive Summary**

The purpose of the amendment of the Placer County Air Pollution District's ("District") Rule 305, Residential Allowable Burning, is to clarify language in Section 103.2 Exempt areas along with a minor change in Section 303 Burn Permits.

Rule 305, Section 103.2, is amended to allow the use of burn barrels to burn dry paper or cardboard for a residence in an area that has been exempted from the State Airborne Toxics Control Measure for outdoor residential waste burning. Section 303 is amended to make the previous Subsection 303.2 a note, to show that the mention of burn permits required by fire agencies is not a requirement of the District.

## **Discussion**

Rule 305, was last amended on August 9, 2018, to add a definition for Cannabis or Marijuana that included both growing and processing. Industrial hemp was included in this definition, so that District Staff do not have to discriminate between industrial hemp and cannabis that is grown for consumption. The amendments prohibited the open burning of waste from the growing or processing of cannabis. In addition, Section 103.2 of Rule 305 was amended to allow burn barrels to be used for the burning of dry paper or cardboard. Although the amended rule was submitted to the California Air Resources Board (CARB) as a requested revision to the State Implementation Plan (SIP), it has been withdrawn and will be superseded by the proposed amended rule if adopted.

Prior to this amendment, on February 9, 2012, all six rules of Regulation 3, Open burning, were amended to address comments made by U.S. EPA and to make non-substantive changes. The rules had been substantially changed, the year before, in 2011 with further amendments in 2012. The six amended rules were subsequently approved by U.S. EPA as revisions to the SIP.

U.S. EPA, in the Technical Support Document that accompanied the Federal Register Notice approving the six rules that were adopted by the District Board on February 9, 2012, as SIP revisions, made the following 3 recommendations:

- Rule 203, Exceptions to Rule 202, contains several references to prior open burning rules (e.g., Rules 315 and 320). For clarification of the allowed exemptions and enforceability, update these references in Rule 203 and resubmit this rule to the SIP.
- Remove the exemption for residential burning of vegetative waste from burn permit requirements and restrict residential burning activity to daytime hours (e.g., Monterey Bay Unified Air Pollution Control District Rule 438 and North Coast Unified Air Quality Management District Rules 200-208). The largest California air districts ban residential/backyard burning entirely (e.g., Bay Area Air Quality Management District Regulation 5, San Joaquin Valley Unified Air Pollution Control District Rule 4103, and South Coast Air Quality Management District Rule 444).

- We encourage the District to examine the feasibility of banning agricultural burning for specific crop types that have economically and technologically feasible alternatives to burning (e.g., San Joaquin Valley Unified Air Pollution Control District Rule 4103).

The amendment of Rule 305 that is proposed does not make any changes to address these recommendations of U.S. EPA.

Following the amendment to Rule 305 on August 9, 2018 District Staff were contacted by CARB staff regarding the adopted August 2018 changes with respect to the use of a burn barrel. CARB staff are concerned that the newly adopted language implies that the District could allow those areas of the county that may have qualified for an exemption to use burn barrels, but did not have an exemption, to now be eligible for an exemption. Those areas of Placer County that had not previously requested an exemption are no longer eligible.

The proposed change in language is to clarify that the use of burn barrels is only in those areas which have previously been approved through the submittal and approval of a Request for Exemption to the CARB.

District Staff are proposing the following amendments, which are summarized below:

- Rule 305, Residential Allowable Burning, be amended to provide clarity with the provisions of the State's Airborne Toxic Control Measure to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning as per discussions with CARB staff. The Iowa Hill sub-area of Placer County is the only Placer County community where dry paper and cardboard is currently allowed to be under a state approved exemption. If the exemption is extended, allowing burning in burn barrels is preferred over open pile burning as it presents a reduced fire hazard.

Section 103.2 be amended to align the census zip code sub-area renewal with the state's requirement that the renewal is required every five years, as follows:

103.2 Effective January 1, 2004, the burning of dry, non-glossy paper and cardboard, or the use of a burn barrels, or both, ~~is not~~ may be allowed unless if an exemption has been approved by the District Board of Directors that meets all the following subsections 103.2.1 through 103.2.76.

...

103.2.4 The residence lies within a sub-area for which the District can request an exemption based on a population density of less than or equal to 3.0 persons per square mile as calculated from the last decennial United States Census Data; and.

~~boundaries of a census zip code or census zip code sub-area, within the district where the population density is equal to or less than 10.0 persons, as calculated from the last decennial United States Census Data; and~~

...

- 103.2.57 Within the boundaries of the ~~census zip code or~~ zip code sub-area, if the population density remains equal to or below ~~103.0 persons per square mile~~ the air district may renew the exemption ~~every ten years for a census zip code and every five years for census zip code sub-area pursuant to Section 93113(e), Title 17 of the California Code of Regulations.~~

[Note: The Iowa Hill area of Placer County is the only sub-area area in Placer County that currently meets the state's requirements for an exemption. The exemption was first requested by the District and approved by CARB in 2005, renewed in 2013, and a subsequent renewal of the 5-year exemption to December 31, 2023, was requested by the District in a submittal dated July 12, 2018. The request was approved in a letter from CARB dated August 31, 2018, with the exemption expiring on December 31, 2023. At the request of CARB, this amendment would limit future Requests for Exemption to areas, such as Iowa Hill, where the zip code sub-area has a population density of less than or equal to 3.0 persons per square mile. Other exemptions provided for in State's Airborne Toxic Control Measure to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning could not be sought nor obtained.]

- Amendment of Section 303, Burn Permits, be amended to clarify the language in this section so that the statement regarding separate burn permits issued by fire agencies is a note and does not have the appearance of a District requirement. The District does not enforce the separate requirement of fire protection agencies for burn permits.

**303 BURN PERMITS:** ~~303.1~~—A District burn permit is not required for residential allowable burning.

NOTE: ~~303.2~~—A separate burn permit may ~~also~~ be required from the fire protection agency that has jurisdiction in the area of the residential allowable burning.

In conclusion, District Staff are proposing to amend Rule 305 with clearer language to permit the use of burn barrels to burn dry paper or cardboard in an area that has been exempted from the State Airborne Toxics Control Measure for outdoor residential waste burning, along with a clarification to the language in Section 303.

## **Public Outreach**

The public hearing was noticed 30-days before the District's Board Meeting on September 9, 2018, in the Auburn Journal, a newspaper of general circulation. The proposed rule amendments were also posted on the District's webpage.

As of this writing, there has been no written public comment.

## **Analysis and Findings**

The following Analysis and the subsequent Findings are intended to address the requirements set forth in the California Health and Safety Code relating to the adoption of a new or amended District Rule, as well as other State statutes referenced herein.

### Cost-Effectiveness of a Control Measure

California Health & Safety Code (H&S) Section 40703 requires a District consider and make public "the cost-effectiveness of a control measure". The adoption of amendments to Regulation 3, Rules 305, is not expected to increase costs to the District. Currently, Iowa Hill has an exemption to use burn barrels for the burning of non-glossy paper and cardboard since they are a long distance from the nearest solid waste disposal facility, and do not have garbage service. The amendments otherwise clarify the language to continue to use a burn barrel in that area. The change in the burn permit language also is not expected to have any affect as it too is clarifying language.

### Socioeconomic Impact

Health and Safety Code Section 40728, in relevant part, requires the Board to consider the socioeconomic impact of any new rule if air quality or emission limits are significantly affected. However, Districts with a population of less than 500,000 persons are exempted from the socioeconomic analysis. In 2015, the population of Placer County was approximately 375,391 persons (US Census Bureau), which means that the District is exempt from this requirement.

### California Environmental Quality Act (CEQA)

The changes in Regulation 3, Rules 305, to extend the state's exemption on the burning of dry paper and cardboard to include the use of a burn barrel for burning will likely not result in an increase or decrease in material burned, and may result in improved combustion and less emissions if a burn barrel is used. The use of a burn barrel would have the significant collateral benefit of reducing the likelihood that the fire would escape. California Public Resources Code Section 21159 requires that an environmental analysis of the reasonably foreseeable methods of compliance be conducted. Compliance with the proposed changes to Regulation 3, Rule 305 is expected to result in no change in emissions or a reduction in emissions. Therefore, the proposed regulation and rule changes will not cause any

significant adverse effects on the environment and may result in reducing impacts. The exemption of Section 103.2 currently applies to the Iowa Hill zip code sub-area. The amendment clarifies that only those areas which have requested and received an approved exemption may continue to use burn barrels for the burning of paper and cardboard as requirements in the future.

District Staff finds that the proposed rule is exempt from the California Environmental Quality Act (CEQA) because 1) the changes proposed are administrative or will lessen emission impacts from burning and are not expected to have a significant adverse effect on the environment (CEQA Guidelines §15061(b)(3)) and 2) it is an action by a regulatory agency for protection of the environment (Class 8 Categorical Exemption, CEQA Guidelines §15308).

### Findings

- A. **Necessity** – The changes to Regulation 3, Rules 305 is necessary for the district to request an exemption from State's Airborne Toxic Control Measure to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning to provide for a means of burning dry paper and cardboard in a burn barrel, where trash collection services are not available and there is a low population, and to make clear that the District is not enforcing the issuance of a fire agency burn permit for residential burning.
- B. **Authority** – California Health and Safety Code, Sections 40000, 40001, 40701, and 40702 are provisions of law that provide the District with the authority to amend these Rules.
- C. **Clarity** – The proposed changes are expected to be easily understood.
- D. **Consistency** – The rules are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.
- E. **Non-duplication** – The regulation does not impose the same requirements as an existing state or federal regulation.
- F. **Reference** – All statutes, court decisions, and other provisions of law used by the District in interpreting this regulation are incorporated into this analysis and this finding by reference.

### **Exhibits**

Exhibit 1: Rule 305 - Residential Allowable Burning (shown with amendments)



## **EXHIBIT 1**

**Rule 305, Residential Allowable Burning  
With Amendments Shown**

# RULE 305 RESIDENTIAL ALLOWABLE BURNING

Adopted 02-10-11  
(Amended 02-09-12, 08-09-18, 10-11-18)

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### 400 ADMINISTRATIVE REQUIREMENTS (None)

### 500 MONITORING AND RECORDS (None)

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## 100 GENERAL

**101 PURPOSE:** To reduce emissions of toxic air contaminants from smoke from allowed outdoor burning at a residence, of allowable combustibles originating, on the premises where burned.

### 102 APPLICABILITY

102.1 This rule shall apply to persons conducting outdoor burning of residential allowable combustibles.

102.2 Title 17 of the California Code of Regulations for the Airborne Toxic Control Measure (ATCM) to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning.

### 103 EXEMPTIONS

#### 103.1 Rule Exemptions

103.1.1 Burning conducted pursuant to Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.2 Burning conducted pursuant to Rule 302, AGRICULTURAL WASTE BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.3 Burning conducted pursuant to Rule 303, PRESCRIBED BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.4 Burning conducted pursuant to Rule 304, LAND DEVELOPMENT BURNING SMOKE MANAGEMENT is exempt from this Rule.

103.1.5 Burning conducted pursuant to Rule 306, ~~OF~~ OPEN BURNING OF NONINDUSTRIAL WOOD WASTE AT DESIGNATED DISPOSAL SITES is exempt from this Rule.

103.2 Exempt Areas: Effective January 1, 2004, the burning of dry, non-glossy paper and cardboard, or the use of a burn barrels, or both, ~~is not may be~~ allowed unless ~~if~~ an exemption has been approved by the District Board of Directors that meets all the following subsections 103.2.1 through 103.2.76.

103.2.1 Burning is only conducted on burn days, and

103.2.2 The dry, non-glossy paper and cardboard to be burned originates from, and will be burned on, the premises of a residence, and

103.2.3 The residence is not in an incorporated place; and

103.2.4 The residence lies within a sub-area for which the District can request an exemption based on a population density of less than or equal to 3.0 persons per square mile as calculated from the last decennial United States Census Data; and the boundaries of a census zip code or census zip code sub-area, within the district where the population density is equal to or less than 10.0 persons, as calculated from the last decennial United States Census Data; and

103.2.5 The residence is in an area not served on a weekly basis by an organized waste disposal service; and

103.2.6 The residence does not lie within the boundary of a jurisdiction which prohibits the burning of dry, non-glossy paper and cardboard as of January 4, 2002, or thereafter.

103.2.57 Within the boundaries of the ~~census zip code or~~ zip code sub-area, if the population density remains equal to or below ~~403.0~~ persons ~~per square mile~~ the air district may renew the exemption ~~every ten years for a census zip code and~~ every five years for census zip code sub-area pursuant to Section 93113(e), Title 17 of the California Code of Regulations.

**200 DEFINITIONS:** (Unless otherwise defined below, the terms used in this Rule are as defined in Rule 102, DEFINITIONS or Rule 301, NONAGRICULTURAL BURNING SMOKE MANAGEMENT.)

**201 ALLOWABLE COMBUSTIBLES:** Vegetation originating on the premises of a residence, limited to the following: dry trees and trimmings, dry brush/shrubs, dry leaves, pine needles, grasses and forbs, dry plants and flowers, dry weeds, and dry vines. Lawn clippings, oleander (*nerium oleander*), cannabis, and poison oak (*toxicodendron diversilobum*) are excluded. Vegetation that is not reasonably free of dirt, soil, and visible surface moisture, is not an allowed combustible.

**202 BURN BARREL:** A metal container used to hold combustible or flammable waste materials, so that they can be ignited outdoors for purpose of disposal.

**203 CANNABIS OR MARIJUANA:** These terms shall be used interchangeably and mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, including marijuana as defined by California Health and Safety Code Section 11018, as may be amended, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The prohibitions of Section 302 of this Rule also apply to "industrial hemp" as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

**204 COMBUSTIBLE:** Any substance capable of burning or any substance that will readily burn.

**205 DISALLOWED COMBUSTIBLES:** Any waste or manufactured material, including but not limited to petroleum products and petroleum wastes; construction and demolition debris; coated wire; putrescible (rotten wastes) and non-putrescible solid, semisolid and liquid materials or wastes; tires; tar; tarpaper; non-natural wood waste; processed or treated wood and wood products; metals; motor vehicle bodies and parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; manufactured products; equipment; instruments; utensils; appliances; furniture; cloth; rags; paper or paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of a dead animal; manure; human or animal parts or wastes, including blood; and fecal- and food-contaminated material.

**206 NO-BURN DAY:** Any day on which agricultural burning, including residential burning, is prohibited by the ARB or the APCO.

**207 OPEN BURNING OR OPEN OUTDOOR:** Burning of any combustibles of any type, outdoors in the open air, where the products of combustion are not directed through a flue.

**208 PERMISSIVE BURN DAY OR BURN DAY:** Any day in which agricultural burning including residential burning, is not prohibited by the ARB and/or the APCO.

**209 RESIDENCE:** A single or two-family dwelling unit and the land and ancillary surrounding (nonresidential) structures.

### **300 STANDARDS**

**301 PROHIBITIONS ON OPEN BURNING:** Except as provided in Regulation 3, no person shall use an open outdoor fire (including the use of a burn barrel) for the purpose of disposal or burning of any disallowed combustibles.

**302 RESIDENTIAL ALLOWABLE BURNING:** Only allowable combustibles, originating at a residence, and free of disallowed combustibles, and reasonably free from dirt, soil, and visible surface moisture, may be burned in an open outdoor burn pile. Burning in a burn barrel is prohibited.

**303 BURN PERMITS:**

~~303.1~~—A District burn permit is not required for residential allowable burning.

NOTE: ~~303.2~~—A separate burn permit may ~~also~~ be required from the fire protection agency that has jurisdiction in the area of the residential allowable burning.

**304 BURN DAYS:** No person shall knowingly ignite, or allow ignition of allowable combustibles on no-burn days or when it is prohibited by a fire protection agency.

**305 VEGETATION PREPARATION AND DRYING TIMES:** To assure rapid and complete combustion with a minimum of smoke, and to lower the moisture content of the vegetation being burned, (from when the vegetation was cut and is to be burned), the following are drying times.

305.1 No vegetation shall be burned unless it is free of disallowed combustibles, dirt, soil, and surface moisture and shall be burned in a manner to prevent excessive smoke. Excessive smoke is that which causes a nuisance.

305.2 Vegetation stacked for burning shall not be burned unless it is stacked in such a manner to promote drying and ensure combustion with a minimum amount of smoke.

305.3 A minimum of 15 days of drying time for fine prunings or cuttings less than 3 inches in diameter, at the cut end.

305.4 A minimum of three to six weeks of drying time, for prunings or brush or small branches 3 to 6 inches in diameter, at the cut end.

305.5 A minimum of six weeks of drying time for trees, stumps and large branches greater than 6 inches in diameter, at the cut end.

305.6 Vegetation or stumps, greater than 12 inches in diameter, shall not be burned unless they are split smaller than 12 inches in diameter and are free of dirt.

**306 APPROVED IGNITION DEVICES:** All open fires as authorized by this regulation shall be ignited only with approved ignition devices. The vegetation to be burned should be ignited as rapidly as practicable within applicable fire control restrictions.

**307 WIND DIRECTION:** Burning shall be curtailed when smoke is drifting into a nearby populated area or when it is or may become a nuisance or hazard.

**308 DETERMINATION OF AMOUNT BURNED DAILY:** Only that amount of vegetation that can be reasonably expected to burn completely within 24 hours of ignition unless the burn hours are further restricted.

**400 ADMINISTRATIVE REQUIREMENTS** (None)

**500 MONITORING AND RECORDS** (None)

PROPOSED